

II. Remarks

To highlight the distinction of the above referenced invention over the prior art as interpreted by the Examiner in the Final Office Action of September 26, 2006, Paper No. 20060918, the independent claims were amended as set forth herein. Independent Claims 1, 21, and 41, and dependent Claims 3, 5, 10, 12, 14, 25, 26, 30, 32, 34, 36, 39-40, 45, 46, 52, 54, 56, 59, and 601 remaining in the application were amended to more clearly define the subject matter of the invention and to place all of the claims remaining in the application in condition for allowance.

In the Final Office Action, the Examiner responded in general to the earlier arguments by indicating that the Applicants were arguing limitations which are not positively claimed by the Applicants. However, the Examiner failed to identify any specific claim limitation which was argued by the Applicants yet not positively claimed in the claims. Accordingly, if such response to further arguments is again contemplated, the undersigned would appreciate the Examiner being specific with respect to argued limitations which are not positively claimed.

In the above referenced Action, the Examiner rejected Claims 1-6, 8-26, 28-46 and 48-60 under 35 U.S.C. §112, first paragraph as failing to comply with the enablement requirement. According to the Examiner, the claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

According to the Examiner, in a prior amendment to the claims, Applicants had added the word "identity" which the undersigned attorney sincerely believes prompted the Examiner to, for the first time, raise a 35 U.S.C. §112, first paragraph rejection. To avoid this rejection, the

undersigned has removed the word “identity” from all of the claims although it is sincerely believed that there is ample disclosure on how the information received from an input device like a fax machine can be identified. For example, on pages 46-48 of the specification, it clearly discloses that

“...prior to sending the fax, the person 70 is voice prompted to enter a mailbox number (aka the Document Routing Number which was discussed previously above) by a procedure or fax manager software 78 that is loaded to one or more of the servers of the system of the present invention.”

Accordingly, the 35 U.S.C. §112, first paragraph rejection is not understood since the specification clearly sets forth the appropriate disclosure necessary to accomplish how a record identity is used in the system. In any event, the objected to language has been removed from the claims and accordingly, it is respectfully requested that the rejection of Claims 1-6, 8-26, 28-46, and 48-60 under 35 U.S.C. §112, first paragraph be withdrawn.

At page 4 of the Office Action, the Examiner further rejects Claims 1-6, 1-20, 41-46, and 48-60 under 35 U.S.C. §112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. The Examiner references MPEP §2172.01 for this rejection. The Examiner further attempts to set forth fabricated omitted steps.

In response to this rejection, first it must be pointed out that the word “essential” is never used in the complete specification. Further, the Examiner seems to indicate that the claims must be enabling of the invention. Clearly, it is only the specification that has this requirement and in view of the claimed language as well as a close review of the specification and drawings, the various claimed steps of receiving information from fax equipment and associating that information with a real estate record using a record identified would certainly be enabled to a

person skilled in the art. Further, the fact that all of the received information is approved by one of the identified users before it is entered and stored on the at least one server as well as assigned appropriate access rights is clearly disclosed throughout the specification and a person skilled in the art will certainly be able to practice the invention without undue experimentation from the disclosure. For example, page 53 of the specification clearly describes the procedure of assigning access and approval to the received information in conjunction with the disclosure of Figure 9. Further, beginning at page 46, the digital document management is clearly disclosed with respect to fax communication wherein the fax which needs to be submitted is inserted into a fax machine after the appropriate number is dialed. A voice prompt is received through the pickup receiver to enter the document routing number followed by the pound sign so that the fax document is received as clearly shown in Figure 9, as an unapproved document. Thereafter, the document must be approved and the appropriate access rights are assignable before it is stored in the system. Accordingly, the specification in conjunction with the drawings clearly enables the invention as claimed. Certainly, it is not expected that the claims must be enabling in that Applicants are allowed to claim the invention as broadly as the prior art permits. Accordingly, from a careful reading of the specification, especially pages 46-49, in conjunction with the disclosure of the drawings, a person skilled in the art has more than adequate information in order to practice the invention without undue experimentation. Accordingly, the "essential" omitted steps in claims, as suggested by the Examiner, is certainly not something that the Applicants have stated in the specification but merely a conclusion by the Examiner which finds absolutely no support in the specification in view of the disclosure of the invention as well as the knowledge of a person skilled in the art. Accordingly, it is respectfully submitted that the rejection of Claims 1-6, 1-20,

41-46, and 48-60 under 35 U.S.C. §112, second paragraph, for the reason of omitting essential steps be reversed.

The Examiner further rejected Claims 21-26, and 28-40 under 35 U.S.C. §112, second paragraph, as being incomplete for omitting essential steps, such as omissions amounting to a gap between the elements. Again, the Examiner refers to MPEP §2172.01.

As set forth above, an Applicant is allowed to claim his invention as broadly as the prior art permits providing, of course, that the appropriate disclosure is made in the specification so that a person skilled in the art can practice the invention without undue experimentation. Again, the word “essential” was not used a single time in the specification for the simple reason that the specification sets forth adequate disclosure for a person skilled in the art to practice the invention with undue experimentation. Certainly, each of the information identified by the Examiner as omissions are well within the realm of a person skilled in the art and with the disclosure provided in the specification, are unnecessary limitations for claim language. Accordingly, it is respectfully requested that the rejection of Claims 21-26, as well as 28-40 under 35 U.S.C. §112, second paragraph, be withdrawn for the reason that the Applicants have set forth appropriate disclosure in the specification so that a person skilled in the art may practice the invention without undue experimentation.

In the above referenced Office Action, the Examiner rejected Claims 1-6, 8-26, 28-46, and 48-60 under 35 U.S.C. §103(a) as being unpatentable over the teachings of Raveis, Jr., U.S. Patent Publication No. 2002/0049624, and further in view of the teachings of Watanabe, Japanese Patent No. 2001-274946. Applicants’ attorney respectfully traverses the 35 U.S.C. §103(a) rejection set forth herein in view of the claims amended herein and presented herewith

and for the reason that Applicants' invention is not an obvious improvement over the prior art cited by the Examiner.

With respect to the rejections under 35 U.S.C. §103, it is noted in MPEP Section 706 that the standard of patentability to be followed in the examination of a patent application is that which was enunciated by the Supreme Court in *Graham v. John Deere*, 148 USPQ 459 (1966), where the Court stated:

“Under Section 103, the scope and the content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved.”

Accordingly, to establish a prima facie case of obviousness, the Patent Office must; (1) set forth the differences in the claim over the applied references; (2) set forth the proposed modification of the references which would be necessary to arrive at the claimed subject matter; and (3) explain why the proposed modifications would be obvious. To satisfy step (3) above, the Patent Office must identify where the prior art provides a motivating suggestion, inference or implication to make the modifications proposed in step (2) above. *In re Jones*, 21 USPQ2d 1941(Fed. Cir. 1992).

The mere fact that the prior art may be modified by the Examiner does not make the modification obvious unless the prior art suggests the desirability for the modification. *In re Fritch*, 23 USPQ2d 1780 (Fed. Cir. 1992). In the present case, the Examiner has failed to make a proper prima facie showing of obviousness since the Examiner has failed to show how the prior art suggests the desirability of the proposed modification.

Raveis, U.S. Patent Publication No. 2002/0049624 is directed to costs, complexities and management of customer relations associated with traditional real estate purchases and sales.

To prevent these problems, Raveis teaches a system and method which utilizes a distributed computer network to facilitate managing customer relationships and the information pertaining thereto in a real estate transaction. Specifically, Raveis teaches a system and method for managing customer relations throughout a real estate transaction cycle over a distributed computer network. In particular, the system and method provides for storing data relating to and coordinating the multitude of tasks associated with the purchase or sale of a property from contract to close. The method includes the steps of generating a customer record including data entry fields for entering an estimated completion date and an actual completion date for each of a plurality of stages of a real estate transaction; providing a customer access to the customer record over a distributed computer network to facilitate the entry, by the customer, of estimated and actual completion dates for the stages of the real estate transaction; providing a real estate agent access to the customer record over the distributed computer network to facilitate the entry, by the real estate agent, of estimated and actual completion dates for various stages of the real estate transaction; providing a transaction coordinator access to the customer record through a server based application to facilitate the entry, by the transaction coordinator, of estimated and actual completion dates for stages of the real estate transaction in appropriate fields of the customer record; indicating, in an appropriate field of the customer record, an identity of the entrant of an actual completion for a stage of the real estate transaction; and providing a hyperlink from the customer record to a site of a marketing partner associated with a stage of the real estate transaction.

Raveis, Jr. further teaches a similar method to provide an entity access to the customer records, to facilitate entry, by the entity, of estimated and actual completion dates for stages of real estate transactions in appropriate fields of the customer record, wherein the entity is selected from the group consisting of a customer, real estate agent and transaction coordinator; and indicating, in an appropriate field of the customer record, the identity of the entity that entered an actual completion date for a stage of the real estate transaction. Further, Raveis, Jr. teaches that the distributed computing network maybe the internet.

Raveis, Jr. further teaches that transaction tracking involves a series of activities or tasks related to the home sale or home purchase process. Schedules are developed to define a time table, track completed items and include related information, i.e. the transaction tracking process. These schedules are completely different for the home sale and home purchase process. The process of transaction tracking can be classified into distinct stages. Customizable transaction tracking templates allow a combination of different stages to be included within each schedule. The stages included within the transaction process can be contingent upon a number of factors. Some of these factors include, but are not limited to, whether a transaction is a home sale or purchase, real estate practices within specific geographic areas, federal, state and local laws, or real estate broker preferences.

In summary then, it is clear that Raveis, Jr.'s teachings are basically limited to a customer record including fields for entering an estimated completion date of a real estate event and an actual completion date for each of a plurality of stages of the real estate transaction with the overall objective of providing a prudent way to manage customer relations associated with the real estate transaction.

It is interesting to note that Raveis fails to disclose or teach the complete digital document management system and how documents are approved for retention, as well as assigned access rights whether the documents are faxed, emailed or scanned into the realty management system before it is stored therein. In other words, in Raveis, any user can upload documents without any control as to whether it is an approved document or not. Therefore, there is no control of whether documents are all stored under the prior established document record should a typo be made in the document record.

Watanabe, Japanese Patent No. 2001-274946 is directed to the problems associated with the transmission of faxes wherein in the case of a document being registered within a file server as transmitted by a fax, it is necessary to print out the document first and then transmit the same to the destination facsimile using the initiating facsimile.

Watanabe teaches the elimination of this burden by providing a communications document to which a special cover sheet on which receiver ID information for identifying receivers as scripted has been attached to the document, transmitting this special cover sheet with the document via facsimile and received by a receiving fax, the receiver ID information scripted on this special cover sheet is decoded, and after the document storage area for the corresponding receiver has been specified by the receiver ID information, the corresponding communication document is stored into the document storage area.

Applicants' invention is directed to the problems associated with a real estate transfer process which is typically accomplished through an assortment of the communication mediums that are not integrated and often not in digital form. Also, in accomplishing this assortment of communications realtors find themselves carrying out a variety of manual tasks, coordinating

schedules of various parties involved in the process or personally delivering and dropping off documents to complete the process. Such traditional process requires a realtor to spend an inordinate amount of time actively managing mundane details, instead of spending time with more rewarding and value added responsibilities like counseling their clients, the marketing of properties, networking with other real estate professionals and cross-selling real estate related services.

Numerous prior art real estate project managements offer packages that have been recently developed but present incomplete solutions, in that, they do not address all tasks within all phases of the real estate transfer process from prelisting to post-listing. Most available prior art technology do not provide a comprehensive approach to facilitating the entire real estate transfer process according to existing real estate industry practices, wherein a real estate professional such as a broker, orchestrates all activities associated with the transfer.

Accordingly, Applicants teach a centralized system and method for automating the process of transferring real estate. The invention is performed on one or more servers and is carried out over a distributed computer network that is connected between servers and a plurality of client computers. Applicants teach that a real estate record identity is created on the server and information is received thereon from a plurality of sources including real estate databases, computer input devices, facsimile equipment, electronic mail systems, and the like. The received information is then associated with the real estate record identity using a record identifier associated with the real estate record identity, the received information is thereafter approved from storage and assigned access rights, and thereafter the information is stored on the server according to the real estate record. In one embodiment of the present invention, the information

is received by receiving a faxed communication from any fax source that is capable of contacting the server irrespective of the faxed number of the fax source. In other words, the server need not recognize a faxed number of the fax source. More importantly, the invention includes server software that voice prompts a sender of the faxed communication to input the real estate record identity into the fax source.

This is accomplished by using the fax key pad which the user then uses to input the real estate record identity. Once the record identity is inputted by the fax sender it is recognized by the server, and the server software is capable of converting the faxed communication into a digital document directly that represents the information to be associated, approved and assigned access rights whereafter it is stored. The approval process consists of software that determines whether the input record identifier matches any of the number of real estate record identities that are stored on the server. If this determination is negative, then the digital document is discarded and identified as an unapproved document, but if it is positive, then the digital document is saved on the server in accord with its matching real estate record identity.

A similar process is used in receiving email communication associated with the real estate transfer. Accordingly, the system and method for automating real estate transfers is able to be controlled by a broker such that all received information, regardless of who it is sent by, is approved and assigned access rights after it is associated with the real estate transfer and stored in a real estate record on at least a server and accessible with proper access rights over the distributed computer network to a plurality of client computers. The real estate broker can restrict third party participation in the real estate transfer, as well as establish calendar templates to be used by real estate agents, as well as limit the various parties associated with the real estate

transfer to access the system so that these may actively participate in the automated transaction simply by using either a fax machine or direct access through the internet. As is clearly set forth, Applicants further teach in conjunction with the use of the real estate transfer system, a tiered security level for the various users of the real estate transfer process.

The differences between Applicants' invention and the prior art references cited by the Examiner in the rejection under 35 U.S.C. §103 are quite clear. The solutions taught by each of the references are directed to problems somewhat different than that disclosed by Applicants' invention. For example, Raveis, Jr., is directed to the problems associated with managing customer relations in real estate transactions. Accordingly, a customer record is generated in Raveis but it is associated with fields to enter estimated completion and actual completion dates for each of a plurality of stages of real estate transactions. Further, Watanabe is directed to problems associated with the use of document needed to be transferred via facsimile to a file server. The prior art required that it was first necessary to print out the document and then transmit the document to the destination facsimile by using an initiation facsimile. Accordingly, the significant labor burden was required in accomplishing this process. To avoid this process, Watanabe teaches the use of a special cover sheet on which receiver ID information for identifying receivers is scripted. The cover sheet is attached to the fax and transmitted via fax, as well as received by a fax. The receiver ID information scripted on the special cover sheet is decoded, and after the document storage area for the corresponding receiver has been specified by the receiver ID information on the special cover sheet, the corresponding communication document is stored in the document storage area.

If, as the Examiner suggests, Raveis, Jr. is combined with the teachings of Watanabe in an attempt to obviate Applicants' invention, it is clear from the teachings set forth in both Raveis, Jr., as well as Watanabe that the suggested combination would not result in Applicants' invention and would in fact require extensive additional structure in an attempt to acquire similar results. Even if accomplished, it must be pointed out that if the teachings of Raveis, Jr. are combined with the teachings of Watanabe the resulting effect would be a method of tracking real estate transaction over a distributed computer network consisting of generating a customer record with entry fields for entering estimated completion and actual completion dates for each of a plurality of stages of a real estate transaction and then associating therewith receiving fax communications having a special cover sheet incorporating thereon receiver ID information for identifying receivers. What is exactly to be done with this faxed communication is certainly not clear from the teachings of Raveis, Jr. or Watanabe, in that, Raveis, Jr. makes absolutely no disclosure with respect to how this faxed communication is to be accommodated into the real estate transaction system by the server software in the form of an estimated or actual completion date of what? Further, neither Watanabe or Raveis teach approving such received information, as well as assigning access rights to such information prior to storing this information in the customer record on the server, therefor. Accordingly, even if the teachings of Watanabe was combinable with the teachings of Raveis, Jr., it would still require a special cover sheet for faxed communications which is needed to be decoded by the file server network so that it may be stored thereon without approval and assigning access rights. Since there is absolutely no motivation, inference or implication as to how Raveis would accommodate this faxed communication, it is difficult to understand how such faxed communication could be entered into the tracking records

of Raveis, Jr. since Raveis, Jr. only teaches entering estimated completion and actual completion dates for each stage of a real estate transaction. Further, Raveis, Jr. is completely devoid of any motivation whatsoever in terms of providing a real estate record identity which is created by the server so that this identity can be disclosed to the sender of the fax by voice prompting in order for the sender to use the input data module of the fax to input the real estate record identity into the faxed transmission process to allow the server to identify the document and receive the document associated with the real estate record identity to generate a record identifier and after approval and assigning access rights, store the document on the server according to the real estate record. Further, it is clear from the teachings of Raveis, Jr. that each of the users, i.e. real estate agent, transaction coordinator, customers, access the real estate tracking system only for purposes of entering estimated dates, as well as actual completion dates for different stages of the real estate transaction so that progress reports with respect to the overall process may be provided to the customer as well as facilitate managing customer relations and information pertaining thereto. Accordingly, as clearly shown in Figure 7 of Raveis, Jr., the flow chart depicts a process for managing the customer relationship based upon transactions relating to real estate in accordance with creating a series of different data tables wherein a schedule is developed to define a time table, track completed items and include related information, i.e. a transaction tracking process, so that the users can input estimated and actual completion dates of different phases of the process.

As the Examiner clearly points in the Office Action, Raveis, Jr. does not teach receiving information from facsimile equipment. Unfortunately, the fact that Watanabe teaches the transmission of faxes using a special cover sheet rather than voice prompt the user to insert the

record identifier, does not in anyway whatsoever change the teachings of Raveis, Jr. from the standpoint that Raveis, Jr. still teaches a real estate tracking system to enter estimated and actual completion dates for each stage of real estate transaction. The automated real estate transfer system and method as contemplated in Applicants' invention is significantly different, in that, Applicants teach the exchange of a variety of documents related to a real estate transfer by the various users involved, that is, brokers, real estate agents, buyers, sellers, as well as third parties to facilitate the processing of a real estate transfer by allowing those users to insert these documents into the real estate record using an identifier, after the documents are approved and assigned access rights. Applicants' invention absolutely has nothing to do with providing access to users during a real estate transaction to enter estimated and actual completion dates of various phases of real estate transactions so as to manage customer relationships as is clearly taught by Raveis. Accordingly, the combination of the teachings of Watanabe with the teachings of Raveis, Jr. still cannot result in Applicants' invention.

It is respectfully suggested that, but for the disclosure made by the Applicants in the application, there is no suggestion whatsoever to combine the teachings of Raveis, Jr. and Watanabe in order to obviate Applicants' invention as taught by the claims presently pending in the application. Thus, it is only through Applicants' teachings and disclosure that one of ordinary skill in the art would appreciate the need for a system and method for automating various phases of the process of transferring real estate. In view of this, a person of ordinary skill in the art would not seek to combine the teachings of these references cited by the Examiner to produce the results that Applicants' invention as now claimed now produces.

It is well settled patent law that the mere fact that a disclosure can some how be combined with other references does not make that combination obvious unless the prior art contains some suggestion of the desirability for combining teachings of the prior art references. Here, the prior art contains absolutely no suggestion, motivation or inference whatsoever for combining the references as set forth in the Examiner's rejection to teach the invention as claimed according to Applicants' disclosure. Therefore, it is respectfully suggested that the Examiner is using hindsight reconstruction in an attempt to obviate Applicants' invention after having the benefit of reading Applicants' application. Absent recognition of the problem faced by the Applicants, the prior art cannot possibly suggest, singularly or in combination, a solution as novel as Applicants' invention, that is voice prompting the user for a real estate record identity to insert before a fax communication, as well as providing a means for approving the received documents whether faxes, emails or otherwise and assigning access rights before the received information is permanently stored. Accordingly, Applicants' invention is an unobvious improvement over the prior art and not an obvious modification of any of the references cited by the Examiner. When viewed singularly or collectively, none of the prior art references teach a real estate transaction system or method to automate the process of transferring real estate.

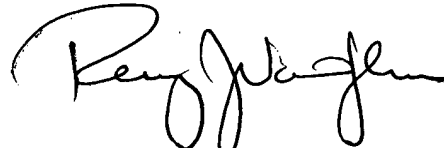
In view of the foregoing remarks, the undersigned attorney respectfully submits that the amended independent claims, as well as the dependent claims are clearly allowable. Therefore, Applicants' attorney respectfully requests that the Examiner's rejections under 35 U.S.C. §103 be withdrawn from the claims as amended herein and that a formal Notice of Allowance be issued therefor.

The Commissioner is hereby authorized to charge any deficiency in fee associated with this amendment to the undersigned's Deposit Account No. 22-0212. A duplicate of this page is included.

If the Examiner has any questions with respect to any matter now of record, Applicants' attorney may be reached at (586) 739-7445.

Respectfully submitted,

VANOPHEM & VANOPHEM, P.C.



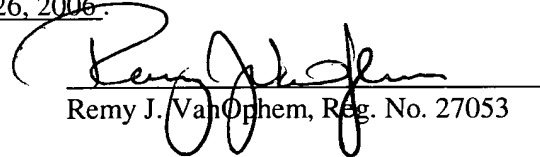
Remy J. VanOphem
Attorney for Applicant
Registration No. 27053

51543 Van Dyke Avenue
Suite 103
Shelby Township, MI 48316-4447
(586) 739-7445
vanpat@wowway.com
Attorney Docket: LDC100A US
RVO/ndt

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendments, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on December 26, 2006.

Date: December 26, 2006



Remy J. VanOphem, Reg. No. 27053